

DISTRICT OF COLUMBIA
DOH Office of Adjudication and Hearings
825 North Capitol Street N.E., Suite 5100
Washington D.C. 20002

DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
Petitioner,

v.

ARMAND LEO DUMAS
Respondent

Case No.: I-00-60127

FINAL ORDER

I. Introduction

This case arises under the Civil Infractions Act of 1985 (D.C. Code §§ 6-2701 *et seq.* (1981 ed.) and the Health Occupations Revision Act of 1985, as amended (D.C. Code §§ 2-3301.1 *et seq.* (1981 ed.)). By Notice of Infraction (00-60127), the Government charged Respondent Armand Dumas with a violation of D.C. Code § 2-3310.1 (1981 ed.), for allegedly practicing dentistry without a license,¹ and D.C. Code § 2-3310.2 (1981 ed.) for alleged misrepresentation.² The Notice of Infraction charged that the alleged violations occurred on July 9, 2001 at 4434 MacArthur Boulevard, NW, and sought a fine of \$500 for each violation.

¹ D.C. Code § 2-3310.1 (1981 ed.) provides: “No person shall practice, attempt to practice, or offer to practice a health occupation licensed or regulated under this chapter in the District unless currently licensed, or exempted from licensing, under this chapter.” The proscriptions of D.C. Code § 2-3310.1 apply to the practice of dentistry in the District of Columbia. *See* D.C. Code §§ 2-3301.2(5), 2-3302.1 (1981 ed.).

² D.C. Code § 2-3310.2 (1981 ed.) provides: “Unless authorized to practice a health occupation under this chapter, a person shall not represent to the public by title, description or services, methods, or procedures, or otherwise that the person is authorized to practice the health occupation in the District.”

On July 20, 2001, this administrative court received Respondent's plea of Admit with Explanation pursuant to D.C. Code § 6-2712(a)(2), along with a request for a reduction or suspension of the authorized fine. In the letter accompanying his plea, Respondent explained that he had been a full-time teaching professor at the Georgetown University School of Dentistry for nearly thirty years, and throughout that tenure, the renewal of his professional licenses had been handled through the Office of the Dean. The Respondent represented that the admitted violations were a "complete oversight since I am unaware of any renewal notification having been received from the Board or forwarded by the University." Respondent further requested an opportunity to renew his license. Accompanying Respondent's letter was a July 16, 2001 letter from Mary Medley, the Assistant Director for Faculty Administration at Georgetown University Medical Center, confirming Respondent's employment from 1962 until the School of Dentistry's closing in 1990.

By order dated August 2, 2001, I allowed the Government an opportunity to respond to Respondent's plea and request. In its August 3, 2001 response, the Government noted that, while it is not uncommon for an educational institution to manage a professor's professional licensing obligations, Respondent had not made any personal efforts to keep his license current since his employment ended in 1990. The Government further noted that while Respondent's District of Columbia license expired in January 1988, he has kept his dental license in the State of Maryland current. Accordingly, the Government requested that the authorized fine for the charged violations be imposed without reduction or suspension.

II. Findings of Fact

1. At all times relevant to this case, Respondent maintained a dentistry practice in Rockville, MD and Washington, DC.
2. During his employment with the Georgetown University School of Dentistry from 1962 until 1990, the Office of the Dean handled the renewal of Respondent's licenses to practice dentistry. While Respondent's license to practice dentistry in the District of Columbia expired in January, 1988, his license to practice in Maryland was current as of August 3, 2001.
3. By his plea of Admit with Explanation, Respondent has admitted violating D.C. Code § 2-3310.1 on July 9, 2001.
4. On July 9, 2001, Respondent practiced dentistry in the District of Columbia without a District of Columbia license.
5. By his plea of Admit with Explanation, Respondent has admitted violating D.C. Code § 2-3310.2 on July 9, 2001.
6. On July 9, 2001, Respondent represented to the public that he was authorized to practice dentistry in the District of Columbia when, in fact, he was not so authorized.
7. Respondent has accepted responsibility for his unlawful conduct.

III. Conclusions of Law

1. Respondent violated D.C. Code § 2-3310.1 (1981 ed.) on July 9, 2001. A fine of \$500 is authorized for that violation. 16 DCMR 3212.1(n).
2. Respondent violated D.C. Code § 2-3310.2 (1981 ed.) on July 9, 2001. A fine of \$500 is authorized for that violation. 16 DCMR 3212.1(r).
3. Respondent has requested an opportunity to renew his expired license as well as a reduction or suspension of the authorized fines in this case. As to the renewal of Respondent's license, it is solely within the province of the District of Columbia Board of Dentistry to determine whether renewal is appropriate under these circumstances. *See* D.C. Code §§ 2-3305.12, 2-3305.19 (1981 ed.). This administrative court cannot, therefore, afford Respondent the relief he seeks in that regard.
4. As to the fine, this administrative court credits Respondent's explanation that the Georgetown University School of Dentistry handled his licensing requirements for nearly thirty years. The ultimate responsibility for maintaining a valid District of Columbia license to practice dentistry, however, rests with the licensee. *DOH v. Pearce*, OAH No. I-00-60110 at 4 (Final Order, March 26, 2001) (noting, "[t]he law places the burden upon the licensee, not the licensing agency, to make sure that proper renewal forms are received and submitted in a timely fashion"); *see also* 17 DCMR 4005 (general license renewal provisions); 17 DCMR 4200.2 (supplementing dentistry regulations with general licensing requirements contained in 17 DCMR Chapter 40). Moreover, left unanswered on this record is

how Respondent managed to keep his license to practice dentistry in Maryland current, while allowing his license to practice in the District of Columbia to expire in 1988, apparently without any inquiry on his part.

5. In light of Respondent's acceptance of responsibility for his unlawful conduct, a modest reduction, but not a suspension, of the authorized fine is appropriate in this case. Accordingly, the fine for each violation will be reduced from \$500 to \$425. D.C. Code §§ 6-2712(a)(2) (1981 ed.); U.S.S.G. § 3E1.1; 18 U.S.C. § 3553.

IV. Order

Based on the foregoing findings of fact and conclusions of law and the entire record in this case, it is hereby this ____ day of _____, 2001:

ORDERED, that Respondent shall pay a total of **EIGHT HUNDRED FIFTY (\$850.00)** in fines in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Code § 6-2715 (1981 ed.)); and it is further

ORDERED, that, if Respondent fails to pay the above amount in full within twenty (20) calendar days of the date of mailing of this Order, by law, interest must accrue on the unpaid amount at the rate of 1 ½% per month or portion thereof, beginning with the date of this Order. D.C. Code § 6-2713(i)(1) (1981 ed.), as amended by the Abatement and Condemnation of

Nuisance Properties Omnibus Amendment Act of 2000, D.C. Law 13-281, effective April 27, 2001; and it is further

ORDERED, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondent's licenses or permits pursuant to D.C. Code § 6-2713(f) (1981 ed.), the placement of a lien on real or personal property owned by Respondent pursuant to D.C. Code § 6-2713(i) (1981 ed.) and the sealing of Respondent's business premises or work sites pursuant to D.C. Code § 6-2703(b)(7) (1981 ed.).

/s/ **11/14/01**

Mark D. Poindexter
Administrative Judge